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Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens

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COUNCIL DIRECTIVE 1999/74/EC

of 19 July 1999

laying down minimum standards for the protection of laying hens

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the European Parliament(2),

Having regard to the opinion of the Economic and Social Committee(3),

Whereas:

(1) On 7 March 1988 the Council adopted Directive 88/166/EEC(4) complying with the judgment of the Court of Justice in Case 131/86 (annulment of Council Directive 86/113/EEC of 25 March 1986 laying down minimum standards for the protection of laying hens kept in battery cages);

(2) Article 9 of Directive 88/166/EEC requires the Commission to submit, before 1 January 1993, a report on scientific developments regarding the welfare of hens under various systems of rearing and on the provisions in the Annex to the Directive, accompanied by any appropriate adjustment proposals;

(3) Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes(5), drawn up on the basis of the European Convention for the Protection of Animals kept for Farming Purposes, lays down Community provisions designed to give effect to the principles laid down in the Convention, which include the provision of housing, food, water and care appropriate to the physiological and ethological needs of the animals;

(4) In 1995 the Standing Committee of the European Convention for the Protection of Animals kept for Farming Purposes adopted a detailed recommendation, which includes laying hens;

(5) The protection of laying hens is a matter of Community competence;

(6) Differences which may distort conditions of competition interfere with the smooth running of the organisation of the market in animals and animal products;

(7) The Commission report referred to in recital 2, based on an opinion from the Scientific Veterinary Committee, concludes that the welfare conditions of hens kept in current battery cages and in other systems of rearing are inadequate and that certain of their needs cannot be met in such cages; the highest possible standards should therefore be introduced, in the light of various parameters to be considered in order to improve those conditions;

(8) However, for a period to be determined, the use of unenriched cage systems may be continued under certain conditions, including improved structural and space requirements;

(9) A balance must be kept between the various aspects to be taken into consideration, as regards both welfare and health, economic and social considerations, and also environmental impact;

(10) It is appropriate, while studies on the welfare of laying hens in various systems of rearing are carried out, to adopt provisions that allow the Member States to choose the most appropriate system or systems;

(11) The Commission must submit a new report together with appropriate proposals that take account of that report;

(12) Directive 88/166/EEC should therefore be repealed and replaced,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive lays down minimum standards for the protection of laying hens.

2. This Directive shall not apply to:

- establishments with fewer than 350 laying hens,

- establishments rearing breeding laying hens.

Such establishments shall, however, continue to be subject to the relevant requirements of Directive 98/58/EC.

Article 2

1. The definitions in Article 2 of Directive 98/58/EC shall apply where necessary.

2. In addition, the following definitions shall apply for the purpose of this Directive:

(a) "laying hens" means: hens of the species *Gallus gallus* which have reached laying maturity and are kept for production of eggs not intended for hatching;

(b) "nest" means: a separate space for egg laying, the floor components of which may not include wire mesh that can come into contact with the birds, for an individual hen or for a group of hens (group nest);

(c) "litter" means: any friable material enabling the hens to satisfy their ethological needs;

(d) "usable area" means: an area at least 30 cm wide with a floor slope not exceeding 14 %, with headroom of at least 45 cm. Nesting areas shall not be regarded as usable areas.

Article 3

According to the system or systems adopted by the Member States, they shall ensure that the owners and holders of laying hens apply not only the relevant provisions of Directive 98/58/EC and of the Annex to this Directive but also the requirements specific to each of the systems referred to below, namely:

(a) either the provisions laid down in Chapter I as regards alternative systems;

(b) or the provisions laid down in Chapter II as regards unenriched cage systems;

(c) or the provisions of Chapter III concerning enriched cages.

CHAPTER I

Provisions applicable to alternative systems

Article 4

1. Member States shall ensure that from 1 January 2002 all newly built or rebuilt systems of production referred to in this chapter and all such systems of production brought into use for the first time comply at least with the requirements below.

1. All systems must be equipped in such a way that all laying hens have:

(a) either linear feeders providing at least 10 cm per bird or circular feeders providing at least 4 cm per bird;

(b) either continuous drinking troughs providing 2,5 cm per hen or circular drinking troughs providing 1 cm per hen.

In addition, where nipple drinkers or cups are used, there shall be at least one nipple drinker or cup for every 10 hens. Where drinking points are plumbed in, at least two cups or two nipple drinkers shall be within reach of each hen;

(c) at least one nest for every seven hens. If group nests are used, there must be at least 1 m² of nest space for a maximum of 120 hens;

(d) adequate perches, without sharp edges and providing at least 15 cm per hen. Perches must not be mounted above the litter and the horizontal distance between perches must be at least 30 cm and the horizontal distance between the perch and the wall must be at least 20 cm;

(e) at least 250 cm² of littered area per hen, the litter occupying at least one third of the ground surface.

2. The floors of installations must be constructed so as to support adequately each of the forward-facing claws of each foot.

3. In addition to the provisions laid down in points 1 and 2,

(a) if systems of rearing are used where the laying hens can move freely between different levels,

(i) there shall be no more than four levels;

(ii) the headroom between the levels must be at least 45 cm;

(iii) the drinking and feeding facilities must be distributed in such a way as to provide equal access for all hens;

(iv) the levels must be so arranged as to prevent droppings falling on the levels below.

(b) If laying hens have access to open runs:

(i) there must be several popholes giving direct access to the outer area, at least 35 cm high and 40 cm wide and extending along the entire length of the building; in any case, a total opening of 2 m must be available per group of 1000 hens;

(ii) open runs must be:

- of an area appropriate to the stocking density and to the nature of the ground, in order to prevent any contamination;

- equipped with shelter from inclement weather and predators and, if necessary, appropriate drinking troughs.

4. The stocking density must not exceed nine laying hens per m² usable area.However, where the usable area corresponds to the available ground surface, Member States may, until 31 December 2011, authorise a stocking density of 12 hens per m² of available area for those establishments applying this system on 3 August 1999.

2. Member States shall ensure that the minimum requirements laid down in paragraph 1 apply to all alternative systems from 1 January 2007.

CHAPTER II

Provisions applicable to rearing in unenriched cage systems

Article 5

1. Member States shall ensure that from 1 January 2003 all cage systems referred to in this chapter comply at least with the following requirements:

1. at least 550 cm² per hen of cage area, measured in a horizontal plane, which may be used without restriction, in particular not including non-waste deflection plates liable to restrict the area available, must be provided for each laying hen;

2. a feed trough which may be used without restriction must be provided. Its length must be at least 10 cm multiplied by the number of hens in the cage;

3. unless nipple drinkers or drinking cups are provided, each cage must have a continuous drinking channel of the same length as the feed trough mentioned in point 2. Where drinking points are plumbed in, at least two nipple drinkers or two cups must be within reach of each cage;

4. cages must be at least 40 cm high over at least 65 % of the cage area and not less than 35 cm at any point;

5. floors of cages must be constructed so as to support adequately each of the forward-facing claws of each foot. Floor slope must not exceed 14 % or 8 %. In the case of floors using other than rectangular wire mesh, Member States may permit steeper slopes;

6. cages shall be fitted with suitable claw-shortening devices.

2. Member States shall ensure that rearing in the cages referred to in this chapter is prohibited with effect from 1 January 2012. In addition, with effect from 1 January 2003 no cages such as referred to in this chapter may be built or brought into service for the first time.

CHAPTER III

Provisions applicable to rearing in enriched cages

Article 6

Member States shall ensure that after 1 January 2002 all the cages referred to in this chapter comply at least with the following requirements:

1. laying hens must have:

(a) at least 750 cm² of cage area per hen, 600 cm² of which shall be usable; the height of the cage other than that above the usable area shall be at least 20 cm at every point and no cage shall have a total area that is less than 2000 cm²;

(b) a nest;

(c) litter such that pecking and scratching are possible;

(d) appropriate perches allowing at least 15 cm per hen;

2. a feed trough which may be used without restriction must be provided. Its length must be at least 12 cm multiplied by the number of hens in the cage;

3. each cage must have a drinking system appropriate to the size of the group; where nipple drinkers are provided, at least two nipple drinkers or two cups must be within the reach of each hen;

4. to facilitate inspection, installation and depopulation of hens there must be a minimum aisle width of 90 cm between tiers of cages and a space of at least 35 cm must be allowed between the floor of the building and the bottom tier of cages;

5. cages must be fitted with suitable claw-shortening devices.

CHAPTER IV

Final provisions

Article 7

Member States shall ensure that the establishments covered by the scope of this Directive are registered by the competent authority and given a distinguishing number which will be the medium for tracing eggs placed on the market for human consumption.

The arrangements for implementing this Article shall be determined before 1 January 2002 in accordance with the procedure laid down in Article 11.

Article 8

1. Member States shall take the necessary measures to ensure that the competent authority carries out inspections to monitor compliance with the provisions of this Directive. These inspections may be carried out on the occasion of checks made for other purposes.

2. From a date to be determined in accordance with the procedure provided for in Article 11, Member States shall report to the Commission on the inspections carried out in accordance with paragraph 1. The Commission shall submit summaries of these reports to the Standing Veterinary Committee.

3. Before 1 January 2002 the Commission shall, in accordance with the procedure laid down in Article 11, submit proposals for harmonisation of the following:

(a) the inspections referred to in paragraph 1;

(b) the form and content of the reports referred to in paragraph 2 and the frequency with which they are to be submitted.

Article 9

1. Whenever uniform application of the requirements of this Directive renders it necessary, veterinary experts from the Member States, in conjunction with the competent authorities:

(a) verify that the Member States are complying with the said requirements;

(b) make on-the-spot checks to ensure that the inspections are carried out in accordance with this Directive.

2. A Member State in whose territory an inspection is made shall provide the veterinary experts from the Commission with any assistance they may require for the performance of their tasks. The outcome of the checks made must be discussed with the competent authority of the Member State concerned before a final report is drawn up and circulated.

3. The competent authority of the Member State concerned shall take any measures which may prove necessary to take account of the results of the checks.

4. Detailed rules for the application of this Article shall be adopted, if necessary, in accordance with the procedure laid down in Article 11.

Article 10

Not later than 1 January 2005 the Commission shall submit to the Council a report, drawn up on the basis of an opinion from the Scientific Veterinary Committee, on the various systems of rearing laying hens, and in particular on those covered by this Directive, taking account both of pathological, zootechnical, physiological, and ethological aspects of the various systems and of their health and environmental impact.

That report shall also be drawn up on the basis of a study of the socio-economic implications of the various systems and their effects on the Community's economic partners.

In addition, it shall be accompanied by appropriate proposals taking into account the conclusions of the report and the outcome of the World Trade Organisation negotiations.

The Council shall act by a qualified majority on these proposals within 12 months of their submission.

Article 11

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred without delay to the Standing Veterinary Committee set up by Decision 68/361/EEC(6), hereinafter referred to as "the committee", by its chairman acting either on his own initiative or at the request of a Member State.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Member States shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the Commission shall adopt the proposed measures and implement them immediately, save where the Council has decided against the said measures by a simple majority.

Article 12

Directive 88/166/EEC is hereby repealed with effect from 1 January 2003.

Article 13

1. Member States shall bring into force the laws, regulations and administrative provisions, including any penalties, necessary to comply with this Directive not later than 1 January 2002. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. The Member States, while respecting the general rules laid down in the Treaty, maintain or apply within their territories provisions for the protection of laying hens which are more stringent than those envisaged by this Directive. They shall inform the Commission of any measure taken to that end.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 14

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 19 July 1999.

For the Council

The President

K. HEMILÄ

(1) OJ C 157, 4.6.1999, p. 8.

(2) OJ C 128, 7.5.1999, p. 78.

(3) OJ C 101, 12.4.1999.

(4) OJ L 74, 19.3.1988, p. 83.

(5) OJ L 221, 8.8.1998, p. 23.

(6) OJ L 255, 18.10.1968, p. 23.

ANNEX

In addition to the relevant provisions of the Annex to Directive 98/58/EC, the following requirements apply:

1. All hens must be inspected by the owner or the person responsible for the hens at least once a day.

2. The sound level shall be minimised. Constant or sudden noise shall be avoided. Ventilation fans, feeding machinery or other equipment shall be constructed, placed, operated and maintained in such a way that they cause the least possible noise.

3. All buildings shall have light levels sufficient to allow all hens to see one another and be seen clearly, to investigate their surroundings visually and to show normal levels of activity. Where there is natural light, light apertures must be arranged in such a way that light is distributed evenly within the accommodation.

After the first days of a conditioning, the lighting regime shall be such as to prevent health and behavioural problems. Accordingly it must follow a 24-hour rhythm and include an adequate uninterrupted period of darkness lasting, by way of indication, about one third of the day, so that the hens may rest and to avoid problems such as immunodepression and ocular anomalies. A period of twilight of sufficient duration ought to be provided when the light is dimmed so that the hens may settle down without disturbance or injury.

4. Those parts of buildings, equipment or utensils which are in contact with the hens shall be thoroughly cleaned and disinfected regularly and in any case every time depopulation is carried out and before a new batch of hens is brought in. While the cages are occupied, the surfaces and all equipment shall be kept satisfactorily clean.

Droppings must be removed as often as necessary and dead hens must be removed every day.

5. Cages must be suitably equipped to prevent hens escaping.

6. Accommodation comprising two or more tiers of cages must have devices or appropriate measures must be taken to allow inspection of all tiers without difficulty and facilitate the removal of hens.

7. The design and dimensions of the cage door must be such that an adult hen can be removed without undergoing unnecessary suffering or sustaining injury.

8. Without prejudice to the provisions of point 19 of the Annex to Directive 98/58/EC, all mutilation shall be